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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/554,078

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EXAMINER

DEMEREE, CHRISTOPHER R

ART UNIT

PAPER NUMBER

3782

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/554,078	Applicant(s) HAMBLIN ET AL.	
	Examiner CHRISTOPHER DEMEREE	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/21/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 9 is objected to because of the following informalities: Lines 6 and 8 contain parenthesis to describe various panels of the blank. Examiner notes that this is improper. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chase (US 1058408 A) in view of Beerend (US 3155304 A).

Regarding claims 1, 3 and 14-16, Chase teaches a folded box comprising a rectangular base (1), upright side walls (2 and 3), upright end walls (4), and a locking assembly (Page 1 lines 10-18) that holds the side walls and the end walls in upright positions with the corners of the tray and therefore the corners of the baked food product produced in the tray being straight and squared (see Fig. 2). Chase lacks teaching that his paperboard container is used for baking.

Beerend teaches a baking pan made of paper and that it is old and well-known to use paperboard trays in baking applications (Col 1 lines 10-15). Therefore, it would have been obvious to one of ordinary skill in the art at the time of Applicant's application to modify Chase's paperboard tray to be suitable for baking, as taught by Beerend.

Regarding claim 2, Chase, as modified above, teaches a folded box wherein each side wall of the tray is inwardly concave along its length between the end walls so that the side walls can flex outwardly to form side walls that are perpendicular to the base and perpendicular to the end walls as the food product in the tray expands during baking. Examiner considers paperboard capable of flexing and therefore the sidewalls of Chase's container are capable of bending to form a generally concave sidewall.

Regarding claims 4 and 10, Chase, as modified above, teaches a folded box wherein the locking assembly includes locking tabs (Chase; 10) on the side walls and slots (Chase; 14) in the end walls that receive the locking tabs and releasably hold together the end walls and the side walls.

Regarding claim 5, Chase, as modified above, teaches a folded box wherein the side walls include flaps (Chase; 9) that are form part of the end walls of the tray (Chase; see Fig. 2).

Regarding claim 6, Chase, as modified above, teaches a folded box wherein the locking tabs (Chase; 10) extend from the flaps (Chase; 9).

Regarding claims 7 and 11, Chase, as modified above, teaches a folded box including gusset corners (Chase; defined by fold 8) in a lower section of the tray (Chase; see Figure 1).

Regarding claims 9 and 13, Chase, as modified above, teaches a blank and the method of forming the container from the blank comprising a base panel (Chase; 1) that is adapted to form the base of the tray; side wall panels (Chase; 2 and 3) adjoining the base panel along opposite sides of the base panel that are adapted to form the upright

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side walls of the tray; end wall panels (Chase; 4) adjoining the base panel at opposite ends of the base panel; and end wall panels adjoining the side wall panels at opposite ends of the side wall flaps (Chase; 9). Chase also discloses a locking engagement comprising locking tabs (Chase; 10) in side wall flaps (Chase; 9) that lock with slots (Chase; 14) in base flaps (Chase; 12).

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chase in view of Beerend as applied to claim 7 above, and further in view of Groh (US 5050766 A).

Regarding claim 8, Chase, as modified above, teaches everything except gusset corners that extend no more than one third the height of the tray. Groh teaches a collapsible ice chest comprising folds (40 and 42) that create lower gusset corners (in conjunction with fold 30); said lower gusset corners extend no more than one third the height of the tray (see Fig. 4). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to further modify Chase's container to include the fold lines (Groh; 40 and 42) in order to make the container collapsible, as taught by Groh.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ritter (US 5255841 A); Dutcher (US 3670881 A); Helens (US 1065404 A); Elkin (US 978569 A); Schramm et al. (US 5226588 A); Solar (US 2017926 A). These references disclose a folded tray comprising gusset panels, locking tabs, locking slots, and end panels substantially similar to that of the instant application.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER DEMEREE whose telephone number is (571)270-1982. The examiner can normally be reached on Mon-Fri, 8:00 AM-5:00PM, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Demeree/
Examiner, Art Unit 3782

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782